

REMARKS

Reconsideration of the present application is respectfully requested in view of the following remarks.

Regarding the non-Final Office Action:

In the Office Action dated September 20, 2007 (Hereinafter, "Office Action"), the Examiner

- (a) required a new title;
- (b) rejected claims 1, 3-7, and 9-12 under 35 U.S.C. § 102(b) as being anticipated by Sim et al. (U. S. Patent Publication No. 2002/0002035);
and
- (c) rejected claims 2 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Sim et al. in view of Official Notice.

Specification Amendments

In the Office Action, the Examiner objected to the title as "not descriptive (Office Action at 3)." While Applicant respectfully disagrees with the Examiner's characterization of the title, Applicant nevertheless has amended the title to advance prosecution. Specifically, Applicant has amended the title to recite "ELECTRONIC APPARATUS AND PROGRAM INCLUDING TWO COMMUNICATION MODES FOR CONTROLLING WIRELESS COMMUNICATION." Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objection to the title.

Claim Amendments

Applicant has amended independent claims 1 and 7 to more appropriately define the present invention. Support for these amendments can be found in the original specification at, for example, paragraphs [0022], [0023], [0032], [0034], [0054], [0056], and [0057].

Applicant has added new dependent claims 13 and 14 to cover further aspects of the present invention. Support for claims 13 and 14 can be found in the original specification at, for example, paragraphs [0029] and [0030], and thus new claims 13 and 14 do not constitute new matter.

Applicant has cancelled claims 3 and 9. Accordingly, claims 1, 2, 4-8, and 10-14 remain pending in this application. Applicant hereby addresses the Examiner's rejections in turn.

Rejection of Claims 1, 3-7, and 9-12 under 35 U.S.C. 102(b)

Applicant traverses the rejection of claims 1, 4-7, and 10-12 under 35 U.S.C. § 102(b) as being anticipated by Sim et al.¹ Applicant respectfully disagrees with the Examiner's arguments and conclusions. Claim 1 is an independent claim, from which claims 4-6 depend, and claim 7 is an independent claim, from which claims 10-12 depend. Claims 3 and 9 were cancelled.

In order to properly establish anticipation under 35 U.S.C. § 102, the Federal Circuit has held that "[a] claim is anticipated only if each and every element as set forth

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). See also M.P.E.P. § 2131.

Sim et al. does not disclose each and every element of Applicant’s claimed invention. Particularly, Sim et al. does not disclose, at least, Applicant’s claimed “when the first communication mode is selected, establishing one channel for transmitting content data from the communication device to the external device, and executing one-way communication ... via the one channel with a first quality ... [and] when the second communication mode is selected, establishing two independent channels between the communication device and the external device ... and executing two-way communication ... via the two independent channels with a second quality which is lower than the first quality (emphasis added),” as recited in amended independent claim 1.

Instead, Sim et al. merely discloses a structure in which two types of links, i.e., SCO and ACL links, are selectively used (see Sim et al., paragraph [0033], lines 7 to 9). The SCO link is a synchronous connection in which two independent channels are not used, although two-way communication is possible (see Sim et al., paragraph [0008], lines 11 and 12). Namely, the SCO link packet transmission from a master to a slave and from the slave to the master are alternately executed in units of slots, using, for example, Time Division Duplex (see Sim et al., paragraph [0008], lines 11 and 12).

In contrast, the apparatus recited in amended claim 1 has a structure wherein when a first communication mode is selected, one channel is established, and when a second communication mode is selected, two independent channels are established on a certain type of link, e.g., an ACL link. Amended claim 1 thus differs from the structure of Sim et al. in which two independent channels are not used. In Sim et al. the type (SCO, ACL) of to-be-used link is changed in accordance with the communication mode used. Thus, claim 1 requires that in the second communication mode, two independent channels including a first channel transmitting content data from the communication device to the external device, and a second channel transmitting content data from the external device to the communication device are established.

Further, in the apparatus recited in amended claim 1, content data compression-encoded by a first compression-encoding scheme is transmitted via one channel in the first communication mode, while content data compression-encoded by a second compression-encoding scheme, which requires a smaller number of arithmetic operations, is transmitted via the two independent channels in the second communication mode. Further, the second compression-encoding scheme requires a smaller number of arithmetic operations compared to the first compression-encoding scheme.

Sim et al. discloses selective use of a first decoder 12 to decode low speed data, and a second decoder 15 to decode high speed data (see Sim et al., paragraph [0038]). However, Sim et al. does not disclose when the first communication mode is selected, establishing one channel, and when the second communication mode is selected, establishing two independent channels based on the communication mode. Nor does

Sim et al. disclose changing the to-be-used compression-encoding scheme in accordance with whether the first communication mode or second communication mode is selected, or lowering the quality of the compression-encoding scheme in the second communication mode by using the second compression-encoding scheme.

Since Sim et al. does not disclose each and every element of claim 1, Sim et al. does not anticipate claim 1. Claim 1 is therefore allowable, and dependent claims 4-6 are also allowable at least by virtue of their respective direct or indirect dependence from claim 1. Applicant respectfully requests withdrawal of the Section 102(b) rejection of claims 1 and 4-6.

Similarly, amended independent claim 7, while of different scope, includes recitations similar to those of amended claim 1, and for at least the reasons set forth above, should be allowed. Claims 10-12 are dependant on claim 7, and are also allowable at least by virtue of their respective direct or indirect dependence from claim 7. Applicant respectfully requests withdrawal of the Section 102(b) rejection of claims 7 and 10-12.

Rejection of Claim 2 and 8 under 35 U.S.C. 103(a)

Claims 2 and 8 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Sim et al. in view of the Examiner's Official Notice. The Examiner, however, has failed to establish a *prima facie* case of obviousness, and thus Applicant respectfully traverses this rejection.

To establish a *prima facie* case of obviousness based on combination or suggestion of prior art, "Office personnel must articulate . . . a finding that the prior art included each element claimed, although not necessarily in a single prior art reference,

with the only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.” M.P.E.P. § 2143.A (8th edition, revision 6).

Sim et al. and the Official Notice, taken alone or in combination, do not teach or suggest each and every element of Applicant’s claimed invention. Official Notice was taken by the Examiner “that a method of notifying a user of an incoming call on a display by prompting a notify message is well known in that art (Office Action at 6).” Without conceding that the Examiners Official Notice is correct or proper, the combination of Sim et al. and the Official Notice, taken alone or in combination, do not teach or suggest each and every element of Applicant’s claimed invention. Particularly, for the reasons explained above regarding the § 102 rejections based on Sim et al., neither Sim et al. nor the Official Notice discloses ““when the first communication mode is selected, establishing one channel for transmitting content data from the communication device to the external device, and executing one-way communication ... via the one channel with a first quality ... [and] when the second communication mode is selected, establishing two independent channels between the communication device and the external device ... and executing two-way communication ... via the two independent channels with a second quality which is lower than the first quality (emphasis added),” as recited in amended independent claim 1.

Claim 2 depends from and incorporates the limitations of claim 1. In view of the failure of each of Sim et al. and the Official Notice to at least disclose the above noted features of claim 1, claim 2 is patentable over Sim et al. and the Official Notice for the reasons set forth above. Similarly, Claim 8 depends from and incorporates the

limitations of claim 7. Claim 7, while of different scope, includes recitations similar to those of amended claim 1, and for at least the reasons set forth above, claim 8 should be allowed.

Conclusion


In view of the foregoing amendments and the remarks, Applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims. The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding argument in favor of patentability is advanced without prejudice to other bases of patentability.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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